

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Michael Lee Beitman,

10 Plaintiff,

11 v.

12 Correct Clear Solutions, et al.,

13 Defendants.
14

No. CV-17-03829-PHX-JAT (BSB)

ORDER

15 Pending before the Court is the Report and Recommendation (“R&R”) from the
16 Magistrate Judge (Doc. 49) recommending that Defendant Bennie Rollins be dismissed for
17 failure to timely serve. Plaintiff has objected to the R&R. The Court will review the
18 portions of the R&R to which there is an objection *de novo*. *United States v. Reyna-Tapia*,
19 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (“statute makes it clear that the district judge
20 must review the magistrate judge’s findings and recommendations *de novo* if objection is
21 made, but not otherwise” (emphasis in original)).

22 Plaintiff does not dispute that Defendant Rollins had not been served. Plaintiff
23 further does not dispute that the time for service has expired. Instead Plaintiff claims that
24 the Court should do more to help him accomplish served.

25 As recounted in the R&R, Defendant Rollins no longer works for, or with, the other
26 Defendants in this case. (Doc. 49). Nonetheless, the Magistrate Judge ordered the
27 appearing Defendants to submit Defendant Rollins’ last known address under seal. (*Id.*).
28 Using that address, the Marshals attempted to serve Defendant Rollins. (*Id.*). The

1 Marshals were advised that Defendant Rollins does not reside at the address provided.
2 (*Id.*). Having exhausted all avenues for discovering Defendant Rollins' address, the
3 Magistrate Judge recommends that Defendant Rollins be dismissed, without prejudice.

4 Plaintiff objects arguing that this Court could take a variety of actions to aid
5 Plaintiff. Specifically, Plaintiff suggests that the Court could appoint him counsel, make
6 the attorneys for the other Defendants accept service for Mr. Rollins, or order the Marshals
7 to locate Mr. Rollins. None of these options are required or appropriate.


8 First, the Magistrate Judge has already denied appointment of counsel (Doc. 55) and
9 this Court agrees with that decision. Moreover, investigative services are not the purpose
10 of appointing counsel. (*Id.*) Second, the Court cannot force attorneys to accept service for
11 someone they do not represent. Third, the Marshals are not investigators for Plaintiff.
12 While the Court understands there are limits to Plaintiff's resources in prison, the Marshals
13 are not his staff to investigate and pursue his private litigation interests.

14 Thus, the Court agrees with the R&R that on this record, there is no likelihood of
15 accomplishing service. Accordingly, dismissal without prejudice is the appropriate
16 remedy. Therefore,

17 **IT IS ORDERED** that the Report and Recommendation (Doc. 49) is accepted; the
18 objections (Doc. 53) are overruled; Defendant Rollins is dismissed for failure to serve,
19 without prejudice.

20 Dated this 26th day of February, 2019.

21
22
23
24
25
26
27
28


James A. Teilborg
Senior United States District Judge